

APPROVED: Meeting No. 9-91

ATTEST: *Sharon A. Duncan*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 8-91

March 25, 1991

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on March 25, 1991, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepien

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. Regarding the Cabin John Lake stormwater management project which has been an integral part of the City's planning process for a number of years, a meeting was held in Baltimore last week to move the project along. To satisfy citizen interest with respect to this process, the City is starting a newsletter and mailing especially tailored to the Cabin John Lake. The first issue will be distributed tomorrow and will contain a summary of last week's meeting as well as background on the lake project.

2. With respect to Item 8C on tonight's agenda, stormwater management waiver for the property at West Gude Drive in the Watts Branch drainage area, all of the necessary information is not currently available. It is recommended that this item be deleted from tonight's agenda and brought back to the Mayor and Council at a future meeting.

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3. A copy of the resolution to adopt the Sediment Control and Stormwater Management Regulations was not included in the briefbook but has been distributed before you tonight.

4. The rededication of Dogwood Park will take place next month. Notices have been sent to the adjacent neighborhoods inviting them to the ceremonies to take place on April 20. In addition to the rededication of the park, there will also be a dedication of the artwork and the season opening of the Rockville Baseball Association.

5. With respect to expansion of the programming on Channel 53, there has been an increasing number of compliments from viewers. The first all Spanish language cable program was recently produced by Doug Breisch and Jeff Baldwin. The 100th Anniversary kick-off celebration in Lincoln Park is being aired this month and, coming in April, there will be a one-half hour documentary on the successful efforts in Lincoln Park. A five-minute version of this program will be submitted to Arts & Entertainment TV network for the annual Cities' Video Award Program.

6. A recent mailing from Cable TV Montgomery in connection with channel line-up changes applies only to those who have cable-ready television. Channel 53 will appear on Channel 33 on cable-ready television only.

7. Regarding the fireworks displays for Hometown Holidays and the Fourth of July, the Hometown Holidays set piece on top of Metro Center will feature a large American Flag with a yellow ribbon. The Fourth of July display set pieces will include the American Flag and Rockville Hometown USA in addition to a special set piece displaying appreciation for Operation Desert Storm. The finale will feature color sequences of red, white and blue.

Re: Presentation to the  
participants in the Sister  
City Girls' Basketball  
Exchange, March 22-April 12,  
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Mayor Duncan welcomed the visitors from Pinneberg and stated that the first basketball game between the Pinneberg team and the Rockville team would take place tomorrow night at 7:00 p.m. at Richard Montgomery High School. Admission is free and everyone was encouraged to attend.

Ekkehard Hegener, Coach of the Pinneberg team, and Tanja Jorgensen, Pinneberg team member, read two proclamations from Pinneberg officials. The Mayor and Council presented the following Pinneberg team members and their Assistant Coach Imke Gernand with Certificates of Recognition and Rockville t-shirts:

|                 |                  |
|-----------------|------------------|
| Ingke Braren    | Wiebke Kruger    |
| Marret Braren   | Regine Meyer     |
| Deike Dummer    | Christina Muller |
| Joana Jager     | Silke Stuben     |
| Tanja Jorgensen | Gaby Subke       |
| Bettina Klein   | Sonja Ziehn      |

Brodie Mullican, Coach of the Rockville team, introduced his team members, assistant coaches Leo Leitner and Jose Deausen and nurse Mary Jo Huffman who were also presented with Rockville t-shirts.

Re: Proclamation declaring the  
week of April 1-7, 1991, as  
**COMMUNITY DEVELOPMENT WEEK** in  
Rockville.

Proclamation No. 2-91

By a unanimous vote of the Mayor and Council, the week of April 1-7, 1991, was declared "Community Development Week" in Rockville. Councilmember Coyle read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Councilmember Coyle commented that the Community Development Block Grant (CDBG) Program is one of the few remaining federal programs which returns tax dollars back to the community and supports many of the housing and community development programs. Ed Duffy, Assistant Director of Economic Development, accepted the Proclamation on behalf of the numerous households which benefit from CDBG funding.

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Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. William Meyer, 804 Leverton Road, congratulated the Mayor and Council for their leadership and expressed appreciation to the staff for providing information which enabled citizens to successfully fight for the time being the inclusion of the Rockville Fire Tax District in the County's Consolidated Fire Tax District.

Councilmember Coyle noted the importance of analyzing the options in more detail inasmuch as this issue will be facing the City again next year.

Mr. Meyer also referenced Item 10 on the agenda, adoption of stormwater management regulations. In particular, the regulations state that pumping water directly from a pool having suspended solids should be discouraged although he noted a City contractor had been doing just that in connection with the Ritchie Parkway project. He also expressed concern with stormwater management measures outlined in the regulations, specifically detention versus retention structures.

The City Manager will respond to Mr. Meyer's concerns.

2. Randy Slovic, 9 Dairyfield Court, requested that the Mayor and Council add to the advisory referendum questions to be placed on the ballot in November the question of election by district. Dividing the City into four districts, according to Ms. Slovic, would provide a greater diversity of views on the Council.

Discussion followed regarding this issue. The Mayor and Council agreed that the City has always been well represented under the current system, and there was no need to pursue such a change. Mayor Duncan encouraged Ms. Slovic to obtain the signatures of the requisite number of registered voters in order to have the question of election by district placed on the ballot.

3. Sima Osdoby, 2 Stevenage Circle, who served as a member of the Election

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Task Force in 1986, commented on the issue of election by district. She indicated that while the Task Force focused on dual registration and campaign finance reporting requirements, there were other questions for future consideration, including election of Councilmembers by district.

Mayor Duncan, who also served on the Election Task Force, responded that the issue of election of Councilmembers by district was discussed by the Task Force and rejected. Councilmember Marrinan strongly supports the current at-large method as does Councilmember Hovsepian who noted that continuation of the current at-large method of electing Councilmembers provides elected officials with a sense of the entire community rather than a specific geographic interest.

4. Jil Swearingen, 843 Bowie Road, referenced a recent meeting regarding Cabin John Lake and requested that, in addition to the mailing on this issue, a full public informational meeting be held. She also stated that she hoped the City would pursue several alternatives to the lake project.

Mayor Duncan emphasized that no final decision has been made on the lake and that the Mayor and Council would make such a decision based upon information provided by staff, public comment and, if needed, a public hearing.

The City Manager clarified that nothing has transpired in the past nine months with respect to the lake as staff was involved with the Ritchie Parkway wetlands.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Dennis Kelly was appointed to a three-year term on the Board of Appeals.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Craig Falk was reappointed to a two-year term on the Economic Development Council.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Stephen Edwards, Genie McKay and Robert Taylor were reappointed to two-year terms on the Recreation and Park Advisory Board.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Dominick Iacuzio and Ellen Watson were appointed to three-year terms on the Science and Technology Commission.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, Alan Levine was reappointed to a two-year term on the Traffic and Transportation Commission.

Re: Approval of Minutes

Upon motion of Councilmember Hovsepien, duly seconded, with Councilmember Coyle abstaining, the minutes of Meeting No. 7-91 (March 11, 1991) were approved, as written.

Re: Consent Agenda

As discussed by the City Manager in his report, Item C, Approval of waiver for on-site stormwater management for the property at West Gude Drive in the Watts Branch drainage area, and acceptance of a \$109,200 contribution for the off-site SWM fund, was deferred for a future meeting. Councilmember Coyle requested that Item H be removed from the Consent Agenda and Mayor Duncan requested that Items A, B and I be removed from the Consent Agenda.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- D. Approval of cost-of-living adjustment in pension payments for retired employees.

The City's Retirement and Disability Board has recommended a 4% adjustment in retiree pension payments, except for those employees having retired within the last 12 months who shall receive a 3% adjustment.

- E. Approval of a five-year contract with the Wyatt Company for actuarial services in connection with the City's employee pension plan.

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The cost for the first year is anticipated to be \$40,500.

- F. Approval of recodification of City employee pension plan.

Recently, the City's pension plan and the various amendments were recodified into a single document. The Retirement and Disability Board has recommended approval of the recodification.

- G. Introduction of Ordinances to amend Chapter 5, entitled "Buildings and Building Regulations," Articles V and VII through XI, so as to adopt the 1990 editions of the BOCA National Building Code, BOCA National Plumbing Code, BOCA National Mechanical Code, BOCA National Energy Conservation Code and National Electrical Code, with certain deletions, additions and changes.

Re: Approval of waiver for on-site stormwater management at Twinbrook Elementary School and acceptance of a \$2,400 contribution to the SWM fund.

Owner, Maryland Child Services, Inc., proposes to build a modular day care center. The proposed Maryvale II SWM facility will provide compensating storage for the additional runoff from this site. Construction is anticipated in June, 1991. This facility currently has received waivers totalling approximately 49.8% of its storage capacity. The addition of this waiver will increase the quantity waived to 50%. There are no wetlands impacts for Maryvale II.

Re: Approval of waiver for on-site stormwater management at the Civic Center and acceptance

of a \$4,400 contribution to the SWM fund.

Owner, City of Rockville, Department of Recreation and Parks, will build a single-story storage facility. The proposed Maryvale II SWM facility will provide compensating storage for the additional runoff from this site. Construction is anticipated in June, 1991. This facility currently has received waivers totalling 50% of its storage capacity; adding this waiver will increase that to 50.30%. There are no wetlands impacts for Maryvale II.

Mayor Duncan had asked that these two Items (A and B) be removed from the Consent Agenda to request additional information from staff as to the water runoff and its final destination. Staff noted that it is compensating storage which will control development from upstream and allow runoff into the stream. Mayor Duncan asked where in the County the runoff is going. The City Manager responded that such information will be provided by staff on April 8 during a presentation to the Mayor and Council on stormwater management in general and, specifically, the Maryvale II facility.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, waivers of on-site stormwater management at Twinbrook Elementary School and the Civic Center with contributions to the SWM fund in the amounts of \$2,400 and \$4,400, respectively, were approved.

Re: Adoption of Resolution to approve an advisory referendum on a proposal to increase the terms of office for the Mayor and Council from two years to four years and a proposal to limit the length of time an elected official may serve.

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Resolution No. 4-91

Councilmember Coyle had requested that this Item (H) be removed from the Consent Agenda to express opposition to any limitation on terms and indicate that he would not like to see this question placed on the ballot. Councilmember Marrinan expressed concern with how the limitation would be determined inasmuch as any number may be considered arbitrary. There are other issues which should be addressed in concert with the limitation of terms, such as consecutive terms, same limitation for Mayor and Council, etc. While in favor of four-year terms, Councilmember Marrinan feels that the current recall provisions are onerous and should be modified if four-year terms were to be adopted.

Councilmember Hovsepian commented that the reason for placing these questions on the ballot is to determine if the voters have changed their minds since the 1984 election. She has no problem with the concept of limitation of terms and believes that the City would benefit from turnover which may generate new ideas.

Councilmember Robbins agrees that the voters should have the opportunity to express their views on both questions, but commented that any given limitation may be arbitrary.

Mayor Duncan commented that he believes two-year terms are better for Rockville. While he supports term limits, the reason for putting these two questions on the ballot is the number of inquiries received from citizens on these two issues. There is enough of an interest in the City to move forward.

Upon motion of Councilmember Robbins, duly seconded and unanimously adopted, the Mayor and Council agreed to cause an advisory referendum to be taken on the following question in Resolution No. 4-91: "Should the terms of office for the Mayor and Councilmembers be increased from two years to four years?"

Mayor Duncan commented that should there be a majority of votes in favor of

the term limits, the Mayor and Council would hold a town meeting following the election to discuss an appropriate limitation for implementation. This would entail a charter amendment and public hearing thereon. Councilmember Hovsepian expressed concern with whether a simple majority of the votes would constitute enough public sentiment to move forward with such a change inasmuch as there is generally low voter turnout. Councilmember Robbins indicated that he is uncomfortable with the open-ended nature of the limitation on terms question.

Upon motion of Councilmember Robbins, duly seconded, with Mayor Duncan and Councilmembers Robbins and Hovsepian voting aye and Councilmembers Coyle and Marrinan voting nay, the Mayor and Council agreed to cause an advisory referendum to be taken on the following question in Resolution No. 4-91: "Should a limitation be placed on the number of terms in office that may be served by the Mayor and Councilmembers?"

The full text of Resolution No. 4-91 can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Authorization to file text amendment which would allow group homes as a permitted use in all residential zones.

Because of changes in federal and state laws, this proposal for a text amendment (Item I on the Consent Agenda) is considerably different from what was originally envisioned by the Mayor and Council, that is, a notification procedure for neighborhoods in which group homes are located. With the permission of the Council, Mayor Duncan requested that this item be referred back to staff to make the following changes: a special exception requirement to permit group homes of eight or more persons; report on licensing done by the County for group homes to determine if their regulations provide for notice to surrounding neighborhoods.

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Inasmuch as City law requires licensing of a residential facility in which five or more people live together, Councilmember Coyle questioned whether the state law permitting group homes for up to eight individuals would pose a conflict in enforcement. The Assistant City Attorney clarified that the state law pertains to persons who are developmentally disabled or mentally ill.

With respect to Mayor Duncan's concern regarding the County's notification process, the Assistant City Attorney responded that the County does provide notice to immediate, adjacent property owners as well as civic associations and municipalities impacted by such group homes. The County has also established a program review committee to review each application.

Staff was instructed to prepare the text amendment, in accordance with applicable state and federal law, to permit licensed group homes in all single family residential zones for eight or fewer persons. Additionally, homes for nine to 14 persons would require a special exception within the City. Staff would also ensure that the County, in its licensing procedures, has a process in place for notifying surrounding neighborhoods.

Re: Adoption of Ordinance to amend Chapter 5, entitled "Buildings and Building Regulations," Article XII, entitled "Property Maintenance Code" of the Rockville City Code so as to adopt the 1990 BOCA National Property Maintenance Code, Third Edition, with certain deletions, additions and changes.

Ordinance No. 6-91

Councilmember Hovsepien was advised by staff that the Property Maintenance Code does not require inspections of single-family homes for compliance prior to a sale. She expressed concern that the general public is not aware of some of these items and suggested that an article be printed in Rockville Reports informing residents of these

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code requirements. Staff noted that there is a brochure detailing this information which receives wide circulation. Additionally, during construction of new dwellings and in conjunction with licensing of rental facilities, properties are inspected for compliance with the Property Maintenance Code. Regarding resales of single-family homes, it was noted by staff that the lenders or buyers would generally check these types of items. Councilmember Coyle suggested that the City may wish to pursue some type of checklist of certain basic requirements of the Code for resale situations if such a program would be legally permissible.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 6-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to repeal the 1973 BOCA Property Maintenance Code and amendments, and adopt the 1990 BOCA National Property Maintenance Code, Third Edition, with certain deletions, additions and changes.

Re: Adoption of Ordinance to revise Chapter 19, entitled "Sediment Control and Stormwater Management" of the Rockville City Code and adoption of regulations governing stormwater management and sediment control.

Ordinance No. 7-91

Minor revisions have been made to Chapter 19 and to the stormwater management regulations to bring the City's laws into conformity with current state laws. These revisions were necessitated by change in state control of stormwater management and sediment control from the Water Resources Administration to the Maryland Department of the Environment.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 7-91, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to revise Chapter 19, entitled "Sediment Control and

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Stormwater Management" of the Rockville City Code.

Resolution No. 5-91

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Resolution No. 5-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to approve regulations governing stormwater management and sediment control.

Re: Discussion and Instructions to Staff - Possible amendment to Chapter 8, "Elections" of the Rockville City Code so as to limit the number or amount of PAC contributions a candidate may receive.

Mayor Duncan referenced the memorandum from the City Attorney regarding prohibition of political action committee contributions in City elections. In connection with the state considering a percentage limitation on the amount of PAC contributions, Mayor Duncan asked the City Attorney if there was anything new to report in this regard. The City Attorney responded that this is still in the discussion stage and that the Attorney General has not yet reviewed the constitutionality of some of these provisions. Several issues of concern were noted by the City Attorney as to dealing with a percentage limit.

Inasmuch as City law already provides for a limitation on campaign contributions, Councilmember Hovsepian commented that the law should remain intact in this respect. Mayor Duncan suggested changing the current limits from \$1,000 to any single candidate to \$500 and the total which can be contributed in any election cycle from \$2,500 to \$1,000. He went on to state that in order to encourage citizen participation in elections, limits on campaign contributions should be reviewed. City elections have traditionally been accessible and affordable, and Mayor Duncan stated that he would hate to see PAC contributions take over City elections.

The Council agreed with the proposed limitations of \$500 and \$1,000, respectively, and the City Attorney was directed to incorporate these changes as well as those recommended by the Board of Supervisors of Elections into an ordinance for introduction at the Mayor and Council meeting of April 8, with a public hearing to be scheduled thereon on May 20.

Re: FYI/Correspondence

Letter from German-American Friendship Society

Councilmember Coyle commented on the support of the Pinneberg Sister City Corporation regarding the Persian Gulf War and their message of friendship to the Rockville Sister City Corporation.

Regency Estates Letter to County Council re Fire Tax District Consolidation

Councilmember Coyle indicated that he had spoken with Chief Hinde of the Rockville Volunteer Fire Department regarding formation of a working group to devise a plan to analyze this entire fire tax issue. Mayor Duncan noted that, as a result of the County Council action to defer the consolidation decision for another year, the City is going to have to reorganize and solicit more business community participation. He noted that the City should be doing its own study and looking at all options. The City Manager will follow up with respect to staff developing a working document outlining such a study and forming a group.

Establishment of a City Safety Committee

Councilmember Hovsepien commended the Personnel Department for establishing a City Safety Committee.

Hispanics United for Rockville Projects

Councilmember Coyle indicated his pleasure that Hispanics United for Rockville had joined the Mayor and Council for the Lincoln Park candlelight vigil ceremony on March 23.

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Re: New Business

Mayor Duncan thanked all of the City and County citizens and civic associations who turned out for the public hearing on the Fire Tax District Consolidation legislation on March 12.

With respect to the question of election by district raised earlier during Citizens' Forum, Councilmember Coyle commented that there is no need for such a change and that he has never heard of any individuals being cut out of the process. There is a need for a stronger civic political process in the City; neighborhood and civic groups really try to get people to participate.

Councilmember Hovsepien noted that people tend to contact their local "representative" on the Mayor and Council because he/she is generally more familiar with problems in their areas, but she feels very strongly that the Council should remain at-large. Over the years, Independents for Rockville (IFR) and Alliance of Rockville Citizens (ARC) made every effort to get representatives from all areas of the City.

Councilmember Marrinan stated that running at-large provides candidates with an appreciation of all of Rockville's strengths and problems.

"Let's keep Rockville, Rockville," commented Councilmember Robbins.

Mayor Duncan referenced Randy Slovic's comments during Citizens' Forum that it is difficult to run Citywide. He noted that it is important to have a Citywide perspective on issues which comes with running at-large. As to the issue of parochialism, he cited as an example the County Council Districts and the recent vote on the fire tax district consolidation. Rockville's position was supported entirely by Councilmembers representing areas in Rockville's fire tax district; there was little responsiveness from Councilmembers representing other areas of the County.

He further indicated that the City has fought long and hard to keep Rockville elections affordable and the campaign period short. He is comfortable with the part-time government we have.

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Re: Next Meeting - April 8, 1991

The following items are scheduled for the meeting of April 8: introduction of revisions to the Election Ordinance; resolution establishing a Civic Center Subcommittee involving Cultural Arts Commission, Historic District Commission, Recreation and Park Advisory Board and the Civic Center Docents as a follow-up to historic district designation of the Civic Center; stormwater management briefing to include Maryvale II. It was also noted that some type of presentation on the Cabin John Lake proposal would be scheduled for the meeting of April 22.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:45 p.m., to convene again in General Session at 7:30 p.m. on April 8, 1991, or at the call of the Mayor.